



INTERIOR BOARD OF INDIAN APPEALS

Richard Johnson, Spokesperson for Leech Lake Petitioners v. Acting Principal Deputy
Assistant Secretary - Indian Affairs

43 IBIA 57 (05/16/2006)

Denying reconsideration of:
42 IBIA 216



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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RICHARD JOHNSON,	:	Order Dismissing Request
SPOKESPERSON FOR LEECH	:	for Reconsideration
LAKE PETITIONERS,	:	
Appellants,	:	
	:	
v.	:	Docket No. IBIA 06-36-A
	:	
ACTING PRINCIPAL DEPUTY	:	
ASSISTANT SECRETARY -	:	
INDIAN AFFAIRS,	:	
Appellee.	:	May 16, 2006

This appeal was from a December 29, 2005 decision of the Acting Principal Deputy Assistant Secretary - Indian Affairs (Principal Deputy), concerning petitions for a Secretarial election to recall three members of the Reservation Business Committee (RBC) of the Leech Lake Band of the Minnesota Chippewa Tribe (Tribe). Appellants, through spokesperson Richard Johnson, are Band members who petitioned for the recall election. On February 13, 2006, the Board of Indian Appeals dismissed the appeal for lack of jurisdiction because the Principal Deputy's decision was issued under 25 C.F.R. Part 82 and the Board is not part of the review process for actions taken under those regulations. 42 IBIA 216.

On May 8, 2006, the Board received from Appellants a request for "clarification" of why the Board dismissed their appeal for lack of jurisdiction. In their request, Appellants apparently contend that their petition was not or should not have been considered under 25 C.F.R. Part 82, but instead under the Tribe's Constitution. Appellants purport to grant jurisdiction to the Board to review this matter under the Tribe's Constitution.

The Board's February 13, 2006 order clearly stated the grounds for why the Board lacked jurisdiction to review an appeal from the Principal Deputy's decision. Although Appellant's request is styled as one for "clarification," Appellants effectively are requesting that the Board reconsider its order of dismissal and consider their appeal on the merits. Therefore, the Board construes Appellants' submission as a petition for reconsideration, pursuant to 43 C.F.R. § 4.315.

43 C.F.R. § 4.315 provides that a “petition [for reconsideration of a Board decision] must be filed with the Board within 30 days from the date of the decision.”

Appellant’s request is postmarked May 5, 2006, more than 30 days after the date of the Board’s February 13, 2006 order of dismissal.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board dismisses Appellants’ request for reconsideration as untimely.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Charles E. Breece
Acting Administrative Judge